

**FILED**

**NOV 27 2018**

Clerk, U S District Court  
District Of Montana  
Billings

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

<b>UNITED STATES OF AMERICA,</b>  <b>Plaintiff,</b>  <b>vs.</b>  <b>\$110,000.00 in U.S. Currency,</b>  <b>Defendant.</b>	<b>CV 18-124-BLG-SPW-TJC</b>  <b>FINDINGS OF FACT, CONCLUSION OF LAW, JUDGMENT, AND ORDER OF FORFEITURE</b>
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This matter is brought before this Court by Plaintiff, United States, by and through its attorney, Victoria L. Francis, Assistant U.S. Attorney for the District of Montana. The United States has filed a Motion for Entry of Judgment and Order of Forfeiture (Doc. 14) pursuant to Fed. R. Civ. P. 55(b)(2). Upon considering the pleadings filed herein, the Court makes the following Findings of Fact and Conclusion of Law.

**FINDINGS OF FACT**

1. On August 17, 2018, the United States instituted a judicial forfeiture action by filing in this cause a Verified Complaint *in Rem* against the Defendant

currency in the amount of \$110,000.00, to forfeit property under 21 U.S.C. §§ 841 and 881(a)(6), asserting the Defendant currency was furnished, or intended to be furnished, in exchange for a controlled substance, and/or was used, or intended to be used, to facilitate one or more violations of 21 U.S.C. §§ 841 and 881(a)(6) . (Doc. 1).

2. On September 12, 2018, the U.S. Marshal Service executed the Warrant of Arrest *in Rem* (Doc. 5) that was issued by this Court on September 4, 2018, and arrested the defendant currency. (Doc. 6).

3. On August 22, 2018, the United States provided “actual notice” of this civil asset forfeiture action, by mailing the Notice of Complaint for Forfeiture (Doc. 2), and Verified Complaint In Rem (Doc. 1), to Justin James Wood, and his attorney, Sebastian Ohanian, via first class U.S. mail and Certified mail, to the addresses provided in Justin Wood’s administrative claim (See Doc. 8, ex.s 1-4), to Sherry Meyoka Wood, and Melva Romares Wood, via first class U.S. mail and Certified mail, to the addresses provided by law enforcement (See Doc. 8, ex.s 5-8), and Timothy F. Wood, via first class U.S. mail to the address of his incarceration, provided by law enforcement (See Doc. 8, ex. 8).

4. Notice of this forfeiture action was also provided to unknown potential claimants by publishing on the government’s asset forfeiture website the Notice of Forfeiture Action for 30 consecutive days, beginning on September 13, 2018, and

ending on October 12, 2018. The “Notice of Forfeiture Action” provides in pertinent part as follows:

Any person claiming a legal interest in the Defendant Property must file a verified Claim with the court within 60 days from the first day of publication (September 13, 2018) of this Notice on this official government internet web site and an Answer to the complaint or motion under Rule 12 of the Federal Rules of Civil Procedure within 21 days thereafter. . . .

(Dec. of Publication, Doc. 10, Att. 1).

5. Upon considering the United States’ Motion for Entry of Default of Known Potential Claimants, Justin James Wood, Sherry Meyoka Wood, Melva Romares Wood, and Timothy F. Wood, (Doc. 7), and Unknown Potential Claimants (Doc. 11), the Clerk of District Court entered the default of Justin James Wood, Sherry Meyoka Wood, Melva Romares Wood, and Timothy F. Wood, on October 2, 2018, and the default of unknown potential claimants, on November 20, 2018, for failure to timely file a verified claim and/or to answer or otherwise defend as required by the Supplemental Rules. (Docs. 9 and 13).

6. The factual allegations set forth in paragraphs 4 through 36, of the Verified Complaint for Forfeiture *In Rem* are verified by Andrew Ubbelohde, Special Agent for the Federal Bureau of Investigation. (Doc. 1)

Based upon the foregoing findings of fact, the Court makes the following conclusions of law.

## CONCLUSION OF LAW

7. The Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1345 and 1355. The United States has filed a Verified Complaint for Forfeiture *in Rem* to forfeit the Defendant currency under 21 U.S.C. §§ 841 and 881(a)(6), as currency constituting monies or other things of value furnished or intended to be furnished in exchange for a controlled substance, and/or were used or intended to be used to facilitate one or more violations of 21 U.S.C. § 841, *et seq.*

8. Pursuant to 28 U.S.C. §§ 1355(b)(1)(A) and 1395(b) or (c), venue is proper in this district because this is a civil proceeding to forfeit United States currency involved in the acts or omissions complained of, that occurred in this district.

9. Civil forfeitures are governed by the Supplemental Rules for Certain Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure. *United States v. 2659 Roundhill Drive*, 283 F.3d 1146, 1149 n.2 (9th Cir. 2002).

10. The Verified Complaint for Forfeiture *in Rem* sets forth detailed facts to support a reasonable belief that the United States will be able to meet its burden of proof at trial as required by Supplemental Rule G(2)(f), to support probable cause, and to provide proof by a preponderance of the evidence to seize and arrest the Defendant currency described in the verified complaint. The facts contained

in the verified complaint support the institution of these forfeiture proceedings for a knowing and willful violation of 21 U.S.C. § 841, and subject to forfeiture under 21 U.S.C. § 881(a)(6).

11. The totality of circumstances as set forth in the Verified Complaint *in Rem*, demonstrates that there is a substantial connection that the Defendant currency was furnished or intended to be furnished in exchange for a controlled substance, and/or was used or intended to be used to facilitate one or more violations of 21 U.S.C. § 841, *et seq.*

12. Notice of this action was properly provided to known potential claimants, Justin James Wood, and Sebastian Ohanian, attorney for Justin James Wood, and Sherry Meyoka Wood, Melva Romares Wood, and Timothy F. Wood, by providing “actual notice” by mailing the Verified Complaint *In Rem*, in accordance with Supplemental Rule G(4)(b)(v).

13. Notice by publication was also provided to unknown potential claimants in accordance with Supplemental Rule (G)(4)(a)(iv)(C).

14. In accordance with Fed. R. Civ. P. 55(a) and Supplemental Rules A(2) and G(5), the Clerk of District Court properly entered the default of Justin James Wood, Sherry Meyoka Wood, Melva Romares Wood, and Timothy F. Wood, and any unknown claimants. (Docs. 9 and 13).

15. Pursuant to Fed. R. Civ. P. 55(b)(2) and 56(a) the United States is

entitled to a judgment of default against the Defendant currency in the amount of \$110,000.00, as to any claims to the defendant currency.


19. The United States is further entitled to an order of forfeiture of the Defendant currency in the amount of \$110,000.00.

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

1. The United States is granted judgment against the Defendant currency in the amount of \$110,000.00, and against any person asserting a claim to, or interest in, the Defendant currency.

2. The Defendant currency consisting of \$110,000.00, is hereby forfeited to the United States and shall be disposed of in accordance with the law.

**DATED** this 27<sup>th</sup> day of November, 2018.

  
SUSAN P. WATTERS  
United States District Judge